

- (c) travel costs to be borne by the applicant where the physical presence of the persons concerned with the presentation of the applicant's case is required in court, and the court is satisfied that the persons concerned cannot be heard to the satisfaction of the court by any other means.

(2) Legal aid granted by the competent authority in Malta when it is acting as a transmitting authority shall cover the following costs:

- (a) costs relating to the assistance of a local lawyer or another person entitled to give legal advice, incurred by the competent authority until the application for legal aid has been received in the Member State where the court is sitting;
- (b) the translation of the application and of the necessary supporting documents when the application is submitted to the authorities of that Member State where the court is sitting.

928G. Costs related to the translation of the application and supporting documents incurred by the competent authority following an application for legal aid by a person domiciled or habitually resident in Malta shall be repaid to the competent authority if the application is rejected by the competent authority of the Member State other than Malta where the Court is sitting.

Other costs.
Added by:
L.N. 342 of 2005.

928H. Documents transmitted by the competent authority shall be exempt from legislation or other similar formality.

Miscellaneous.
Added by:
L.N. 342 of 2005.

Title XI

OF CURATORS

929. Besides the cases where by express provision of this Code the appointment of curators is necessary, the court shall also appoint curators to appear in and defend proceedings in any of the superior courts or in the Court of Magistrates (Gozo) in its superior jurisdiction -

- (a) in the interest of any absent person or minor not legally represented or imbecile or person interdicted or any person uncertain who is entitled to succeed to an entail or to any vacant inheritance not legally represented or any person who may in future be entitled to succeed to such entail or inheritance; or
- (b) in the interest of any person not known to be living or presumed to be dead, where, for the purposes of any action, it is necessary judicially to call upon such person; or
- (c) in the interest of any person presumed to be dead, where any other person claims to succeed to the rights of such person; or

Where curators are to be appointed in superior courts or Gozo court in superior jurisdiction.
Amended by:
XXIII. 1971.54;
XV. 1983.11;
VIII. 1990.3;
XXIV. 1995.341.

Cap. 168.

- (d) in the interest of any commercial partnership registered or established under the Commercial Partnerships Ordinance* or any other law substituting the same Ordinance or any body of persons or other organization if the person or any of the persons vested with the representation thereof is or are absent from Malta or where there is or are no such person or persons, or enough persons vested with such representation.

Appointment of
curators before or
in the course of
proceedings.

930. (1) The curators shall be appointed by the competent court on a demand made by an application filed together with the act whereby the action is commenced; in any such case the names of the curators shall not be stated in the act whereby the action is commenced, and it shall be the duty of the registrar, upon the appointment of the curators, to insert the names of such curators in the act before giving course thereto.

(2) Curators may also be appointed on an application *pendente lite* or even on a verbal demand made during the hearing of the suit, where the appointment of curators becomes necessary after the commencement of the suit.

(3) The filing of any such application shall suspend the course of any time respecting the acts of procedure.

Issue of banns.
Posting up and
service of banns.
Substituted by:
XV. 1983.12.
Amended by:
XXIV. 1995.342.

931. (1) The court, upon making an order for the appointment of curators, shall issue banns to be posted up at the entrance of the building in which the court sits.

(2) A copy of the banns together with a copy of the pleading or a summary thereof shall be served on one of the persons most closely related to the person to be represented or in respect of whose inheritance the appointment of curators is demanded, and where no relations are known, such copy shall be served on some other person known to be or have been a friend of the person concerned.

(3) Where no relation or friend as is mentioned in sub-article (2) is known to the person demanding the appointment of curators, the court may order that instead of the service mentioned in sub-article (2) a copy of the banns together with a copy of the pleading or a summary thereof be published in the Government Gazette and in at least two daily newspapers at the expense of the applicant.

Contents of banns.
Amended by:
XXIV. 1995.343.

932. (1) The banns shall contain an indication of the demand for the appointment of curators and of the order of the court, together with an intimation that any person willing to accept the appointment is to appear, within six days in the registry and declare his acceptance by means of a note.

(2) There shall also be stated in the banns that, in default of any such declaration, the court shall proceed to appoint official curators.

*Repealed by Act XXV of 1995 (Cap. 386).

933. Where any person appears and, by a note signed by him, offers to accept the appointment, it shall be lawful for the court, if it deems it for the benefit of the interest to be represented, to confirm as curator the person so appearing.

Confirmation as curator of person offering to accept appointment.

934. If no person appears within the said time of six days, or if the court does not confirm the person appearing, the court shall appoint as curators an advocate and a legal procurator from those on the rota mentioned in article 91.

Appointment of official curators.
Amended by:
XXIV. 1995.343.

935. The person appearing to the banns, if confirmed as curator, shall not be entitled to the reimbursement of the expenses, except where a favourable judgment is obtained with costs.

Person confirmed as curator not entitled to expenses.

936. (1) The curators are bound to use their best diligence for the benefit of the interest which they represent. The duties of the curators shall include the following:

Duties of curators.
Substituted by:
XXIV. 1995.344.

- (a) to fully inquire as to the rights of the persons whom they represent and to identify these rights;
- (b) to take all the necessary measures to safeguard the aforesaid rights;
- (c) to contact forthwith the person or persons whom they represent, if the address is known; if unknown, they are to take all possible measures to find out their address including that of publishing, with the authority of the court, a notice in a newspaper of the place where last known;
- (d) to inform the person or persons whom they represent of any judicial act and of the contents thereof;
- (e) to obtain all the necessary information to defend the interests of the person or persons whom they represent;
- (f) to continue looking after the interests of the person or persons whom they represent with regard to pending matters although the period of appointment under articles 89 or 90 may have expired; and
- (g) to keep the court regularly informed of all actions taken in the execution of their duties.

(2) The curators shall be liable for damages and interest which may be occasioned by their negligence.

937. The legal procurator appointed to act as curator shall obtain for the advocate such information as to facts as the advocate shall require, file the written pleadings, be present at the hearing, and afford all other necessary assistance to the advocate.

Duties of legal procurator appointed as curator.

938. The curators appointed from the rota shall, respectively, be entitled to the necessary expenses incurred by them and to such fees as according to the tariffs in Schedule A annexed to this Code are generally due to the advocate and the legal procurator in a cause:

Fees due to official curators.
Amended by:
IX. 1886.115.
Substituted by:
XXIV. 1995.345.

Provided that the court may at the request of the curator order that a provisional sum be paid on account and in advance to

the curator by the person requesting the appointment of such curator to cover expenses which the curator indicates that he would be incurring:

Provided further that where the court removes a curator in case of misconduct or negligence according to the provisions of article 96, the court shall order that no fees as aforesaid be paid to the curator or that only a specified portion thereof be paid, without prejudice to any other right competent to the person he was representing for damages suffered.

Appointment as curators of persons expert in the subject-matter of the curatorship.

939. Where the curator is to be entrusted with the charge of ships or merchandise, the court shall appoint as curator a person who is skilled in the matter for which the appointment is sought, but if any action shall arise, the court shall, in addition to such curator, appoint one of the advocates on the rota mentioned in article 91.

Appointment of curators *ad litem* in inferior courts.
Amended by:
XV. 1913.165;
VIII. 1990.3.

940. In the Court of Magistrates (Malta) and in the Court of Magistrates (Gozo) in its inferior jurisdiction, the appointment of curators *ad litem* shall be made on the verbal demand of the party, observing the procedure laid down in articles 931, 932 and 933.

Power of court.
Amended by:
IX. 1886.116.

941. Where, in the cases referred to in the last preceding article, no person voluntarily appears to assume the curatorship, or the court does not deem it proper to confirm the person appearing, the court shall appoint as curator an advocate or a legal procurator even though not on the rota mentioned in article 91.

Procedure prescribed in Title to apply to cases arising before court of second instance or on new trial.

942. The procedure prescribed in this Title shall also apply where the occasion for appointing curators arises before a court of second instance or on a new trial.

Title XII OF DEPOSITS

Irregular deposits (i.e. lodgment of money legally current in Malta).
Amended by:
VIII. 1903.3;
XV. 1913.166;
L.N. 4 of 1963;
XXXI. 1966.2;
VIII. 1990.3;
XXIV. 1995.357.

943. (1) Irregular deposits of moneys in the superior or inferior courts shall be effected by the filing of a schedule in the registry and the lodging of the moneys in the place appointed by the Minister responsible for justice by a notice in the Government Gazette.

(2) A copy of the lodgment schedule shall be served upon all parties interested.

(3) The lodgment schedule shall be signed by an advocate or a legal procurator, as the case may be:

Provided that in matters pertaining to the Civil Court, First Hall or to the Court of Magistrates (Gozo) in its superior jurisdiction in commercial matters or to the inferior courts, the signature of the person making the deposit shall be sufficient.

(4) The Government shall be responsible for such deposits.